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HAROLD B. WILLEY, Cle

SUPREME COURT OF THE UNITED STATES

**OCTOBER TERM, 1952**

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# No. 723

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L. E. (PRINCE) WALES, DOING BUSINESS AS WALES TRUCKING COMPANY; L. C. JONES TRUCKING COMPANY, INCORPORATED, PARKHILL TRUCK COMPANY, AND H. J. JEFFRIES TRUCK LINE,

*Appellants,*

*vs.*

THE UNITED STATES OF AMERICA, ET AL.

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APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS

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## STATEMENT OF HEAVY HAULERS, INCORPORATED, ET AL., APPELLEES, AS TO JURISDICTION AND MOTION TO DISMISS OR AFFIRM.

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REAGAN SAYERS,
*Counsel for Tex-O-Kan Transportation Company, Incorporated;*
ROLLO E. KIDWELL,
*Counsel for Heavy Haulers, Incorporated, W. C. Case and H. L. Case, Doing Business as Case Brothers, C. J. Simpson, John B. Barbour Trucking Company and J. H. Marks Trucking Company, Incorporated.*

## STATEMENT AS TO JURISDICTION AND MOTION TO DISMISS OR AFFIRM ON BEHALF OF APPELLEES, HEAVY HAULERS, INC., ET AL.

Appellees Heavy Haulers, Inc., W. C. Case and H. L. Case d. b. a. Case Brothers, C. J. Simpson, John B. Barbour Trucking Company, J. H. Marks Trucking Co., Inc., and Tex-O-Kan Transportation Company, Inc., adopt as their own and on their behalf Appellees' Statement as to Jurisdiction heretofore filed by appellees E. L. Farmer & Company, et al., in this cause on February 23, 1953, in opposition to appellants' jurisdictional statement; and

Move to dismiss the appeal, or, in the alternative, to affirm the judgment of the District Court on the grounds that appellants' jurisdictional statement does not present any grounds upon which it is contended that the questions involved are substantial, and the questions on which the decision of this cause depends are so unsubstantial as not to need further argument.

The argument which these appellees desire to present in support of this motion is identical with that presented in the Appellees' Statement as to Jurisdiction and Motion to Affirm or Dismiss, above referred to, filed herein by E. L. Farmer & Company, and in the interest of avoiding repetition in the record, these appellees adopt as their own and in their behalf the statements and arguments made therein in support of the motion. The statements in such Statement and Motion are applicable equally on behalf of these appellees, with the further statements that the applications in this group of cases were assigned for hearing in Dallas on April 27, 1949, rather than on April 18, 1949, and the protestants' (including appellants here) evidence is identical in the two groups of hearings, the protestants' evidence in the Farmer & Company group of cases having been

incorporated into the other group of cases by stipulation at the Denver hearings.

WHEREFORE, the undersigned appellees move the Court to dismiss this appeal, or, in the alternative, to affirm the decree of the District Court dismissing the complaint.

Respectfully submitted,

REAGAN SAYERS,
*Counsel for Tex-O-Kan Transportation Company, Inc.;*

ROLLO E. KIDWELL,
*Counsel for Heavy Haulers, Inc., W. C. Case and H. L. Case, d. b. a., Case Brothers, C. J. Simpson, John B. Barbour Trucking Company, and J. H. Marks Trucking Co., Inc.*